

### **3c Review of Planning**

---

---

#### **o Purpose of Report**

To advise the Board of the recommendations from the Independent Review of Planning, the Scottish Government's response and to suggest that the Board writes to the Local Government and Housing Minister with Nestrans observations prior to the publication of the Government's proposed White Paper.

#### **o Background**

At the last Board meeting the Board were verbally informed of the publication of the Independent Review of the Scottish Planning System, Empowering planning to deliver great places (May 2016). This publication can be found at: <http://www.gov.scot/Resource/0050/00500946.pdf>

The Independent Panels report recommends improvements to Scotland's Planning system towards achieving the following outcomes:

- Strong and flexible Development Plans
- The delivery of more high quality homes
- An infrastructure first approach to Planning and development
- Efficient and transparent development management
- Stronger leadership, smarter resourcing and sharing of skills
- Collaboration rather than conflict – inclusion and empowerment

Overall there are 48 recommendations for the Government to consider.

The Scottish Government has produced a paper (July 2016) providing their initial response to the Independent Panel's views and recommendations. This can be found at:

<http://www.gov.scot/Topics/Built-Environment/planning/Review-of-Planning/documents>

This paper, generally supportive of the direction pointed to by the Independent Panel, notes that the Government intend to consult fully on a White Paper in Autumn/ Winter 2016 with a view to bringing forward a Planning Bill in 2017.

#### **o Extent of this paper**

The Strategic Development Planning Authority and the two Councils will be considering the Planning and wider implications of the recommendations in detail. This report considers the recommendations with particular reference to transport and from the Regional Transport Partnership perspective. It is not intended to critique the Planning issues which will be more appropriately considered by the Councils and the SDPA.

## o **Consideration of the Recommendations from the Independent Panel**

Of the 48 recommendations contained within the Independent Panel's report there are 16 which have particular reference to Regional Transport Partnerships and transport. These recommendations are listed below along with comment. In a number of cases the Panel's recommendations are not fully worked through and further clarification on their meaning will be required to understand the implications of what is being proposed.

1. *The primacy of the development plan should be retained.*
  - o *Aligning with community planning, development plans should be recognised as a central and powerful driver of the place agenda. To achieve this there is a need to focus on outcomes, rather than policy and procedure.*

From the regional transport point of view it is important that there is a plan which provides the basis for planning for future transport requirements. Some further clarification on what is meant by the term "outcomes" in this context would be helpful in trying to ensure enough information is given in the plans to permit assessment of future transport requirements.

2. *To simplify the system, strategic development plans should be replaced by an enhanced National Planning Framework.*
  - o *The NPF should be strengthened and prepared collaboratively, to address long term city-region development and infrastructure issues more fully and effectively. We propose that strategic development plans are no longer prepared. Instead, strategic development planning authorities should be repurposed to pioneer a different way of working where planners proactively co-ordinate development with infrastructure delivery at the city-region scale. By working with others to take forward commitments set out in a live action programme for the city region, they would also support housing delivery and co-ordinate cross-boundary thinking to inform local development plans. They should be given a statutory duty to co-operate with the Scottish Government in producing the NPF.*

There are a number of issues within this recommendation that the Board may wish to consider:

- o An enhanced National Planning Framework, taking on the role of the Strategic Development Plan in effect becomes a National Development Plan. As such the document setting strategy for the City Region is likely to be determined at the national level rather than being set regionally/ locally. This might be considered a matter of significance where the regional/ local economy is significantly different from the national economy.
- o Whilst working collaboratively, as the review highlights, to address long term city region development and transport infrastructure issues may well be possible there could be a concern that, since the NPF is a national document, then national priorities and views could be given precedence over regional and local priorities and views. In effect there could be a scenario where the wishes of Transport Scotland supersede those of the Nestrans Board.
- o It has long been desired that spatial planning and transport are considered collectively and each feeds the other considerations in order to produce a set

of complementary documents. Given the scale of the issues this is easier to achieve at the regional rather than national level. Regional discussion creates an iterative process to result in a more collective view.

- Repurposing the SDPA where planners pro-actively co-ordinate development with infrastructure delivery, in transport terms, introduces an overlap with the functions of the Regional Transport Partnerships and Local Authority Planning/ Roads services.
- The particular view that infrastructure delivery can be better aligned with development appears to stem from a thought that the reason that many developments proceed without necessary infrastructure in place, particularly transport infrastructure, is that there is something fundamentally wrong with the planning process. Experience suggests that, particularly for fast growing regions like the north east, the real reason is that the public sector, in times of severe financial restraint, has been unable to match the rate of private sector investment across the region. This point isn't a criticism of the public authorities who face increasing demands and competing bids for funding (social care, education, affordable housing and transport etc.) from reducing resources at a time of significant private sector development, particularly in the north east, rather it is a realism of trying to match public sector resource to private sector activity.
- The Panel's review offers the opportunity to review the funding for and the development of infrastructure supporting development.

*6. Local development plans should move to a 10 year cycle.*

- *Local development plans should set out a 20 year vision and focus on place, rather than policy. The preparation process should be streamlined to a 2 year period, leaving the remainder of the time to focus on implementation and work with local areas to build in community led plans*

*7. There should be scope for flexibility and updating local development plans (whole or in part) within the 10 year period.*

- *This will allow plans to be more responsive to opportunities and evolve over time to reflect much fuller collaboration with communities.*

Although transport projects can often take several years for assessment, determination and implementation and a ten year plan would provide consistency, ten years is a long time in a fast growing region. Equally important to the consistency requirement is a requirement, especially in the minds of those affected by a proposal, to be up to date with assessment when taking forward projects. The current 5 year timescale, with the proposed streamlined development period, may well be a reasonable compromise between consistency and currency in regions where developments can and do change priorities for investment.

If the recommendation for Local Development Plans to have a 10 year cycle is matched by the enhanced NPF having a similar cycle then a natural progression would be for the regional transport strategies to have a similar 10 year cycle. Such a timescale in a region of significant growth and change may be considered to be too long.

*11. Given their special circumstances, the island authorities should be given more flexibility where this would better reflect the distinctive local context for planning in an island setting.*

Given the distinctive economic factors around the north east economy the Board may wish to consider whether there should be more scope for determining a regionally decided

Strategic Development Plan, or enhanced section of the NPF, to take into consideration the different conditions affecting the different regions of the country.

*12. The National Planning Framework should define regional housing targets as the basis for setting housing land requirements in local development plans.*

- *Local authority housing strategies should also have greater prominence and stronger linkage to the production of local development plans.*

Whilst the “national” need should be reflected in the NPF, there needs to be an understanding that not all regions are in competition in relation to housing provision. Housing need and housing land supply in the north east does not impact on other regions of the country and vice versa. The housing need in the north east will be determined by the economy in the north east. Any new extended NPF without an SDP would risk not reflecting this different economy. In effect the particular housing needs of the north east could be somewhat diluted within a wider national strategy. This in turn could have knock on impacts on the needs for infrastructure improvements.

*15. Mechanisms for planning authorities to take action to assemble land and provide infrastructure upfront should be established as soon as possible.*

- *Land reform has a pivotal role to play in unlocking land for development. Planning must become more central to this debate and mechanisms for land value tax, majority land assembly, compulsory purchase orders and compulsory sale orders have particular potential to support the aspirations for planning set out here.*

This recommendation has the potential to be very interesting for the provision of infrastructure and priority setting for Authorities. Further detail on this proposal would be helpful as it may potentially require alterations to primary legislation.

*17. A national infrastructure agency or working group with statutory powers should be established, involving all infrastructure providers as well as planning representatives.*

- *There is a disconnect between established investment programmes and the sub-regional infrastructure gaps that are emerging in development plans across the country. There is a need for a single body to have an overview of the strategic business case for front funding infrastructure as a specific element of the planning service at a city-region and local level. To guide this, a national infrastructure agency or working group should be established and tasked with providing a clearer, cross cutting overview of planning and infrastructure provision. This group will bring together all relevant infrastructure agencies including the key agencies, electricity, heat and telecommunications providers. Scottish Enterprise, Highlands and Islands Enterprise and the re-purposed strategic development planning authorities will also have a crucial role to play at the city-region scale.*

As a Key Agency presumably the Regional Transport Partnerships would be involved in this National Infrastructure Agency. The north east however does try and achieve, for our region, what this proposed body would be trying to achieve at the national level. This is done through the Future Infrastructure Requirement (FIRs) Groups in the Region.

For transport there is already Local Authorities, Regional Transport Partnerships and Transport Scotland. It is not yet clear how this body would add to enhanced delivery of infrastructure that the existing bodies and FIR's Groups don't already do although a more formalised arrangement could bring clarity to where the major constraints sit and where direction is required.

*18. Options for a national or regional infrastructure levy should be defined and consulted upon.*

- This should draw on the lessons learned from the Community Infrastructure Levy in England and Wales and capture land value uplift. We recognise that there are both strengths and weaknesses in this model, but given the limitations of Section 75 agreements, there is much that could be gained from a well-designed mechanism which properly reflects market circumstances and takes into account development viability. Given variations in market confidence and its influence on the ability to charge for necessary infrastructure, scope to build a fund that has a redistributive role should be investigated further.*

*19. A development delivery infrastructure fund should be established.*

- Such a fund could be partly resourced by a mechanism to capture land value uplift. The Scottish Futures Trust could play a role in this and should also explore the use of government guarantees to support an infrastructure first approach. With regard to housing delivery, we welcome the additional funding that is being made available under the More Homes Scotland scheme and would suggest it should be prioritised to assist the delivery of stalled proposals that have been identified in development plans.*

This proposal appears to build upon the attempted development of a similar approach in the north east through our Strategic Transport Fund. The Board may wish to make comment on the offered choice of a regional or national fund.

*20. A corporate structure requiring all key infrastructure providers to co-operate in delivering the local development plan should be introduced.*

- This should include the existing key agencies, but extend to other bodies including those responsible for delivering electricity, heat, telecommunications and digital networks. Linking with external infrastructure providers, a corporate partnership should be established which commits to delivering plans at all scales from the National Planning Framework and its proposals for city-regions to local development plan action programmes.*

As a Key Agency, Nestrans would be involved in this. Further detail is required on how this corporate structure would operate and whether and how Transport Scotland would be involved.

*21. A review of transport governance should be undertaken to address the gap between this key aspect of infrastructure and development planning.*

- Our view is that transport agencies at the national and regional scales should be given a clearer mandate to directly support the delivery of development in accordance with the development plan.*

This recommendation could provide a good opportunity to review governance and mandates for the differing bodies involved in the delivery of transport infrastructure but experience would suggest that in the north east it is not a lack of support from national and regional transport authorities rather it's a lack of funding to match the rate of spend from the private sector.

*23. Local authorities and their partners need to become much bolder in their approach to infrastructure investment.*

- A return to an 'infrastructure first' approach is recommended, particularly to support large scale housing initiatives. Planning can and should lead this, by defining the future of our places and identifying the infrastructure required to support development. In local development plans, certainty is key – for infrastructure providers, developers and communities. As part of this, development plans should provide a clear schedule of infrastructure costs. Work to build models and methods for this should be undertaken as a priority.*

This approach may well work for the infrastructure needs in the area local to the development and indeed for many developments seems to be in place. In transport terms however the overlooked need has been the cumulative impact of all the developments on the strategic transport network. This results in the need to upgrade junctions or provide new public transport for example that cannot be related to any particular development. Models are in place to help in assessing this need but the issue here isn't around just certainty or costs which can be difficult to determine for projects required at the end of the 20 year plan period and could lead to other undesirable consequence such as blight. The issue is also around development rates and lack of public sector funding to match the scale of private sector development.

*36. Planning services should aspire to become leaders and innovators within the context of public service reform and the Scottish Government and key agencies should lead by example.*

- A planning service should be viewed as a central function of a local authority that is of direct relevance to a wide range of other services. To ensure this happens, we propose that Local Authority Chief Executives have a statutory responsibility for signing-off the local development plan before it is approved by full council. Planning and Architecture Division should be recognised as a leader and co-ordinator of the place agenda within the Scottish Government and adequately resourced to reflect this. The Improvement Service also has an important role to play in this.*

From the Regional Transport Partnership point of view, as a Key Agency, our role is to work with our Local Authorities to develop a regional transport strategy that enables the development of the strategic and local development plans. To achieve this an iterative process is required between plan and transport strategy development. The north east, it can be argued, has a good track record in this area.

38. *Scope for further discretionary charging, for example for pre-application processes, should be considered further.*

- *Innovative mechanisms to penalise negative behaviour and incentivise productive relationships, whilst also reflecting varying workloads should also be explored. Examples include higher fees for retrospective applications and combined consents, higher enforcement penalties and discounted fees for sites which are already allocated in the development plan. Charging by key agencies is also supported but must also be directly linked to improved service provision.*

Further clarity is required on this recommendation particularly in relation to the last sentence in its relationship to transport planning.

41. *Local authorities should pursue the establishment of shared services.*

- *Radical solutions to resources need to be realised. Shared services would be particularly helpful in specialist areas such as minerals, aquaculture, GIS, environmental assessment and conservation where it is unrealistic to expect all local authorities to maintain a high level of expertise in-house. Arrangements for this should therefore be actively pursued and led by Heads of Planning Scotland in collaboration with the Scottish Government and potentially with other bodies such as COSLA, RTPI, RICS, the Improvement Service and the key agencies.*

From the transport perspective, as Key Agencies, the Regional Transport Partnerships as well as the Strategic Development Planning Authorities work in effect as shared services for our Local Authorities in determining the agreed regional strategies and working to implement them. In the north east there is strong evidence of this working together and sharing expertise between Councils and the Nestrans/ SDPA and between Councils in developing the Roads Collaboration programme.

## o **The Scottish Government response**

The Scottish Government has issued its initial response to the Independent Panel's review. It starts by saying:

*We agree with the panel that our planning system could be significantly strengthened to ensure that the aspirations which underpinned the 2006 Act are fully met. To achieve this, it is clear that change is required. We want to simplify and strengthen the planning system to ensure it better serves all of Scotland's communities.*

*This review provides an excellent opportunity to improve Scottish planning's confidence, reputation and ability to deliver real and positive change on the ground. We have considered the independent panel's findings and strongly support the six outcomes proposed by the review.*

An acceptance of the outcome "An infrastructure first approach to planning and development" could be read to imply that the view that, from the transport perspective, the Planning system is responsible for development being built before the infrastructure is in

place rather than there not being enough public sector funding to support the private sector development, particularly in the fast growing region.

*At this early stage it is already clear that we agree in principle with many of the recommendations. We recognise that further work is required to consider each recommendation in more detail. Some, as set out below, are widely supported and can be implemented swiftly, without the need for further consultation. Others are more challenging and will benefit from more detailed consideration, research input, discussion and consultation.*

*Bringing forward a coherent programme of planning reform for the coming years is a priority for the Scottish Government. We fully commit to taking forward the review recommendations with pace and professionalism.*

*We want to build on the open, objective and constructive approach to the review and the fresh thinking it has encouraged. The success of future reform will depend on all those with expertise and experience in the planning system getting involved. It is critical that others are able to fully engage rather than just be consulted on proposals. We call on planners, developers, agencies and communities and wider interests to work with us to develop, implement and invest in a strong and positive programme of reform.*

*We are encouraged by the supportive feedback from stakeholders following publication of the panel's report. We also recognise that others may disagree with some of the panel's recommendations. Our view is that this report is a significant and positive step in enabling planning to better support our communities and economy. As the panel have thoroughly considered the evidence, we do not intend to re-open the debate on what should be done, but to focus instead on how improvements could be delivered. We want to move forward constructively and swiftly, building on the recommendations to develop improvements for the benefit of future generations.*

The document then outlines ten immediate actions that the Scottish Government intend to take. These are mainly related to Planning issues.

On the issues that require further consideration the Government says:

*We will:*

- *establish working groups to focus on each of the six key themes addressed by the review: ..... infrastructure; ..... These groups will involve representatives of the public and private sector at different scales, the key agencies, communities and other related interests. Urban and rural interests will also be represented. They will be tasked with exploring practical options for implementation of the*

The Board may wish to express a desire to see the Regional Transport Partnerships included in this working group. This could be taken up with both the Minister for Local Government and Housing and the RTP Chairs.



- *work with strategic development plan teams to identify options for re-purposed strategic development planning authorities, taking into account their relationship with National Planning Framework and wider governance of city region planning, development and infrastructure delivery*

The wording of this could be interpreted as accepting that Strategic Development Plans will no longer be required and their role subsumed into an enlarged National Planning Framework/ National Development Plan. The Board may wish to take a position, as outlined above, on the advisability of removing the need for a Strategic Development Plan for the north east given our different economy and geography.

However given what appears to be a Scottish Government acceptance of the recommendation the Board may wish to also express a view that this re-purposing of the SDP teams has, for transport, the potential to overlap with the roles of the RTP's and as such RTP's should be involved in these discussions for these issues.

The Scottish Government say:

*We are aiming to consult fully on a White Paper in Autumn / Winter 2016. This will enable a Planning Bill to be brought forward in 2017.*

*The scope of the paper will depend on the work over the summer but we currently expect a White Paper to seek views on proposals for (amongst other things):*

- *a reconfigured system of development plans. This will link with proposals to extend the role and scope of the National Planning Framework and Scottish Planning Policy;*
- *an approach to infrastructure delivery which recognises the development planning process;*

## • **Recommendation**

It is recommended that the Board:

1. Instruct the Director to liaise with SDPA and Council colleagues to provide the Boards view on the issues raised in this report
2. Write to the Minister for Local Government and Housing expressing the Boards considered view following discussion on the issues raised in this report
3. Raise the issues in this report with the RTP Chairs to determine if there is a consensus amongst RTP's with a view to the RTP Chairs writing to the Minister for Local Government and Housing offering RTP involvement in the issues raised by the Independent Panel's recommendations as far as they affect the work of the RTP's.